



MIAMI BEACH

OFFICE OF THE CITY MANAGER

NO. LTC # 013-2013

LETTER TO COMMISSION

TO: Mayor Matti Herrera Bower and Members of the City Commission

FROM: Kathie G. Brooks, Interim City Manager

DATE: January 14, 2013

SUBJECT: Transmittal of Internal Audit Analysis of Code Compliance and Fire Prevention and Cases

Attached please find the final Internal Audit report on the Analysis of Code Compliance and Fire Prevention Cases. A copy of this report is also available online at:
<http://www.miamibeachfl.gov/obpi/default.aspx?id=67242>.

This audit was requested by the City Administration immediately following the arrests of seven (7) City employees, employed in the Code Compliance and Fire Prevention disciplines, who were arrested by federal agents as part of a criminal investigation in April 2012. The focus of the audit was to review all complaints, cases and adjustments relating to the Code Compliance Division and the Fire Prevention Division in order to determine whether there were any significant trends in the data which would reflect abnormalities in need of further review. The analysis covers the time period of January 1, 2010 through April 30, 2012.

The attached audit contains recommendations for the Code Compliance and/or Fire Prevention Divisions to further improve internal controls in an effort to improve the business processes and to help increase accountability and transparency. A copy of the report has also been provided to Crowe Horwath as part of their study on the regulatory departments within the City, including the Divisions of Code Enforcement and Fire Prevention. It is important to note that both the Code Compliance Division and the Fire Prevention Division have already implemented a number of corrective actions to improve internal controls (attached).

Should you have any questions or concerns, please do not hesitate to contact me.

Thank you.

KGB:CMG

Attachments

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MIAMI BEACH

BUDGET AND PERFORMANCE IMPROVEMENT
Internal Audit Division

INTERNAL AUDIT MEMORANDUM

TO: Kathie G. Brooks, Interim City Manager
FROM: James J. Sutter, Internal Auditor *JJS*

DATE: November 30, 2012

SUBJECT: Analysis of Code Compliance and Fire Prevention Complaints and Cases

PERIOD: January 1, 2010 through April 30, 2012

This report is the result of an analysis conducted at the City Administration's request of the Code Compliance and Fire Prevention Divisions' processes as well as a review of sampled complaints, cases and adjustments recorded in the Permits Plus and Eden Systems between January 1, 2010 and April 30, 2012. It is separated into the following identifiable sections for the reader: Introduction, Current Processes, Analyses Performed, Conclusions and Recommendations.

INTRODUCTION

On April 11, 2012, seven (7) City employees were arrested by federal agents as part of a criminal investigation. The arrests of these four (4) Code Compliance Officers, the lead Code Compliance Administrator and two (2) Firefighter I employees have adversely impacted the City and its business, particularly within the Code Compliance and Fire Prevention disciplines. Furthermore, the arrests have placed a cloud of suspicion over past, as well as future, Code Compliance and Fire Prevention Division endeavors and regulatory efforts.

As a result, the Internal Audit Division of the Office of Budget and Process Improvement with the aid of the Code Compliance Division Director performed various analyses on selected Code Compliance and Fire Prevention complaints, cases and adjustments occurring during the 28 month period of January 1, 2010 through April 30, 2012. The focus of the analysis was on reviewing all complaints, cases and adjustments through electronic means to determine whether there were any significant trends in the data which would reflect abnormalities in need of further review. A summary of the total population (excluding adjustments) generated from the City's Permits Plus System as of May 7, 2012 is as follows:

	Number
Code Compliance Complaints (XC)	7,226
Code Compliance Cases (CE)	33,658
Fire Cases - Day Time (FI)	9,348
Night Fire Inspections (FI)	6,847
Total	57,079

Lastly, a total of 479 Eden System adjustments equaling \$609,861 were performed for 274 Code Compliance Division customer accounts during the reviewed period with some of these cases originating prior to January 1, 2010.

CURRENT PROCESSES

A. Code Compliance Violations

The Code Compliance Division is tasked with addressing violations of the City Code, and with maintaining City neighborhoods' standards and the community's overall quality of life. Code Compliance Officers proactively monitor and respond to complaints within residential and

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commercial districts for these potential violations. The division is responsible for ensuring compliance with the City of Miami Beach's code of ordinances; which include Zoning, Property Maintenance, Sanitation, Marine, Noise, and City Code (dogs off leash, handbills, beach litter, etc.). Complaints are received through such various means as email, in person, telephone calls to the division or directly to Code Compliance personnel through the WebQA internet complaint tracking system and through calls obtained from Dispatch (operated by the Parking Department). The division operates from 6:00am till 1:00am on Mondays through Wednesdays; and 24 hours per day on Thursdays through Sundays.

Code Compliance Officers are to provide all the pertinent information to an Administrative Aide I upon returning to the office so that the corresponding cases can be created or updated in the Permits Plus System. Based on these entries and the corresponding approvals from the designated Code Compliance Administrator(s), any of five (5) designated Administrative Aide Is were authorized to create City Bills in the Eden System's Accounts Receivable Module to start the billing/collection process. While all five (5) Administrative Aides Is had access, one was tasked with the primary responsibility of inputting City Bills while another served as his backup. Invoices were then mailed by the Finance Department notifying the customer of any amounts due until either full payment is received or the outstanding balance is eliminated due to rulings by the Special Master, the monies are deemed uncollectible and are written off, etc.

B. Fire – Night Inspections

Firefighters volunteer to perform night inspections of the City's entertainment establishments each Friday and Saturday from 10:00pm till 4:00am. Two (2) firefighters work as a team for each six (6) hour shift and are paid overtime with at least the lead inspector required to be properly certified. As a result of obtaining their certification, these lead inspectors receive an additional 5% pay supplement in accordance with section 7.5A of the International Association of Fire Fighters Local 1510 signed agreement in effect between October 1, 2009 and September 30, 2012.

For special event weekends, additional two (2) person teams may be assigned. The teams usually select which businesses to visit nightly from a listing maintained by the Fire Marshal that typically fluctuates between 100 and 150 establishments.

These night inspections focus on the safety of the establishment, particularly in relation to overcrowdings and blocked exits, as more detailed fire inspections are performed during the daytime hours. If the establishment exceeds capacity, then the inspectors would instruct the establishment's management not to allow any more patrons to enter, and would issue a pre-numbered ticket with a designated fine. For blocked exits, immediate action is to be similarly taken to correct the deficiency and tickets/fines are to be issued.

Inspection information is to be entered into the Permits Plus System by a designated Fire Department Administrative Assistant I utilizing a Master A/P/D number for each location. Current system limitations only allow for the lead inspector's name to be entered into Permits Plus. Any warranted fines are to be subsequently entered into the Eden System's Accounts Receivable Module as City Bills by the same Administrative Assistant I.

C. Code Compliance Adjustment of Outstanding Fines

Outstanding City Bills occasionally need to be adjusted because of a reduction of fines or a dismissal of cases by the Special Master; change or transfer of property prior to the placement

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of a lien; the violations were issued incorrectly or to the wrong party; the customer paid monies which were processed through a Miscellaneous Cash Receipt by the Central Cashier's Office rather than on a City Bill, etc. The designated Code Compliance Division Administrative Aide I would typically be notified of the need to prepare the adjustment either verbally or by an email from the lead Code Compliance Administrator. Once entered in the Eden System, the corresponding pre-programmed approval queue would notify the applicable City employees of their need to review the pending transaction. If approved by all parties, the transaction would be processed and the City Bill adjusted accordingly.

ANALYSES PERFORMED

It should be noted that the testing conducted and any conclusions derived is based on the quality and completeness of the data entered. Any incomplete, omitted or altered data cannot yield a true and accurate picture. In addition, all system reports received from external sources were assumed to be complete as any testing performed was based on their listed information.

A. Code Compliance Violations

Upon request, the Information Technology Division provided four (4) separate Permit Plus System's data extractions (Code Compliance Complaints, Code Compliance Cases, Fire Cases – Day Time, and Night Fire Inspections) which were merged into one consolidated report containing a total population of 57,079 complaints and cases for 7,462 addresses. Although Code Compliance Officers have other duties besides investigating complaints and issuing warnings/violations resulting in the creation of cases, a rough calculation shows that full time and part time Code Compliance Officers responded to and created an average of 2.52 complaints and cases per day between January 1, 2010 and April 30, 2012. In lieu of any identified departmental benchmarks, it is difficult to determine if this figure is reasonable.¹

This consolidated report was initially sorted and reviewed through electronic means by employee, address, location (including commercial/entertainment and residential), violation status, violation type and subtype, etc., to determine whether there were any significant patterns, trends or abnormalities in the data that warranted further review. The following data pertaining to the arrested five (5) Code Compliance and two (2) Fire Department employees was reviewed whereby no trends or patterns were noted:

- 1,362 addresses representing those locations involving any of the seven (7) employees.
- 620 addresses where any combination of these seven (7) employees individually visited a location but at different times.
- 82 addresses where one of the seven (7) employees worked with another Code Compliance Officer whose name was also listed in Permits Plus. (It should be noted that not all cases had second officers in the officer's field.)
- 8 addresses where at least any two (2) of the seven (7) employees concurrently visited the designated location.

¹ Number of Code Compliance complaints 7,226 (page 1 XE) + 33,658 number of Code Compliance cases (page 1 CE) = 40,884 (total complaints and cases) / 28 (months during the reviewed period) = 1,460.14 (complaints and cases per month) / 20 (working days per month) = 73.01 (number of complaints and cases per day) / 29 (full time and part time Code Compliance Officers) = 2.52 (complaints and cases per officer per day).

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Next, the focus shifted to inspected addresses, regardless of the employee(s) who performed the initial inspection. A sample of 50 addresses containing 5,646 cases were selected which consisted of the 25 addresses having the most total inspections while the remaining 25 were randomly chosen. Testing did not identify any behavioral trends with respect to the number of cases or the frequency of inspections primarily because during morning shifts, Code Compliance Officers are assigned areas of coverage which do not overlap. According to the Code Compliance Division Director, these areas are assigned annually so only three (3) rotations took place between January 1, 2010 and April 30, 2012. In addition, the rotations that took place may have changed officers to different quadrants within the zone, but not from zone to zone (ex. North to South, South to Middle, etc.).

Officer zone allocations and distributions are assigned considering their performance and experience, while shift hours (ex. morning vs. afternoon shifts) are assigned in accordance with union contracts. As a result, no trends and/or relationships between Code Compliance Officers and locations were noted, considering that most cases observed for a given address or location were typically issued by the officer assigned to that zone.

Only the reduced number of employees working the afternoon and night shifts (approximately five (5) per shift) were able to float between zones or were assigned Citywide. However, no effective internal controls existed to help ensure that all Code Compliance Officers' visits during a shift were properly entered and documented.

Daily reports reflecting the Code Compliance Officer's activity details were not always properly prepared as they were often found to be incomplete and used broad terms. Complaints were usually logged by third parties (Dispatchers) and were provided to the Code Compliance Officers through their respective Code Compliance Administrators, but the corresponding results and findings were primarily up to the judgment and discretion of the Code Compliance Officers, as well as the level of documentation, narratives and support for the same.

During the review, the most predominant trends observed involved significant control weaknesses in both operation and supervision. Closed and voided cases were poorly documented by the Code Compliance Officers and were rarely questioned or verified by their direct supervisors, Code Compliance Administrators. The majority of cases closed by the Code Compliance Officers alleging compliance could not be verified as they rarely provided any supporting documentation as to the reasons why they were closed. Instead, only photographs of the violation and poorly written details would be entered into Permits Plus.

It was also found that the Code Compliance Administrators typically relied on Code Compliance Officers' decisions without conducting any further verification or questioning, when determining whether to give their approvals to closed cases. They did not perform random unannounced site visits to help verify the accuracy of the listed information and to gauge the performance of the corresponding Code Compliance Officers.

Another observation noted during review of the 57,079 Code Compliance and Fire Prevention complaints and cases population as of April 30, 2012 was the lack of follow-up on outstanding cases as shown by the following table (sorted by the number of cases):

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Case Status	Number of Cases
Open	4,139
Bill Owed	2,354
Special Master	578
Bill Pending	538
Open F	307
XXXXXX XX *	299
Pending	49
Open C	2
Total	8,266

- * According to the Code Compliance Division Director, the "XXXXXX XX" status was given to cases that were in transit from the Code Compliance Officer to the administrative staff in order to be entered and documented in the Permits Plus System and/or it was pending the delivery of proper service.

Not all of these cases should have additional actions taken and their statuses changed since a few were inspected at the end of the April 2012, some contained permitting or building construction issues which take longer to be resolved, etc. Review of these sampled cases that should have been closed found that the delays were primarily due to either the Code Compliance Officers taking too long to provide the supporting documentation or the administrative staff not entering the cases timely thereby potentially hindering collection or closure. Either way, many of these cases need to be resolved promptly so that the necessary actions can be taken (create City Bills, write-off as uncollectible, etc.). Finally, follow up inspections were not necessarily performed by the predetermined "comply by" date thereby further delaying closure.

The overall actions taken by the five arrested Code Compliance employees for received complaints (XC) was compared to the average of those taken for all the remaining Code Compliance Officers. Table 1 below summarizes the results of the analyses and is listed by percentages so that they can be more easily compared given the differences in the number of relevant Code Compliance Officers:

Table 1 - # of Complaints (XC) Handled by % selected Code Officers Compared to the Remaining Officers by Status						
Status	Complaints Received					
	For the 5 Officers		For the Remaining Officers		For All Officers	
						Description
VIO	201	22.38%	1,637	29.03%	1,838	28.12%
INVALID	606	67.48%	2,911	51.62%	3,517	53.80%
NOTICE	6	0.67%	141	2.50%	147	2.25%
NOVIO-C	50	5.57%	683	12.11%	733	11.21%
VIO-C	7	0.78%	127	2.25%	134	2.05%
ASSIGNED	24	2.67%	114	2.02%	138	2.11%
VOID	4	0.45%	26	0.46%	30	0.46%
	898	100.00%	5,639	100.00%	6,537*	100.00%

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- * The total number of complaints received of 6,537 (898 + 5,639 = 6,537) in Table 1 differs from the 7,226 listed in the table on page 1 by 689 due to the exclusion of 89 complaints for which the name of the Code Compliance Officer was omitted and 600 additional complaints that either occurred on the City's public right-of-way or the address field was left blank.

Table 1 shows the concerning trend that the five (5) Code Compliance officers issued a lower percentage of violations (22.38% to 29.03%) and invalidated a higher percentage of complaints investigated (67.48% vs. 51.62%) than the average for the remaining Code Compliance Officers. Next, the violation and invalid percentages were calculated individually for the 17 Code Compliance Officers who responded to at least 100 complaints between January 1, 2010 and April 30, 2012. As a result, the following observations were noted:

- Three (3) of the 17 officers' violation percentages ranging from 16.71% to 21.65% were less than the five (5) officers' 22.38% average.
- 12 of the 17 applicable officers' invalid rates exceeded the 51.62% average for their group of remaining officers. These 12 officers' percentages also exceeded the individual percentages rates for four (4) of the five (5) officers with complaints (77.78%, 74.32%, 63.63% and 53.44%).
- The highest calculated officer's invalid percentage of 74.89% was 10.74% higher than the next ranked officer and was the only one to exceed the five (5) officers' 67.48% average and was similar to two (2) of the five (5) officers' percentages (77.78% and 74.30%)

Although these individual Code Compliance Officer's percentages were similar to those of the five (5) officers' corresponding percentages, there may be extenuating circumstances that would justify these outliers. Division management should perform additional analyses on these complaints and further scrutiny of the individuals' performance to better determine if any wrongdoings occurred.

Similarly, Table 2 compares the overall actions taken by the five (5) arrested Code Compliance employees for cases (CE) to the average of those taken for all the remaining Code Compliance Officers:

Table 2 - # of Code Cases (CE) Recorded by Selected Officers Compared to the Remaining Officers by Selected Status										
Type of Violation	For the 5 Code Officers					For the Remaining Code Officers				
	# of Cases		Void	Cancelled	Invalid	# of Cases		Void	Cancelled	Invalid
CNOISE - Noise	1,877	40.55%	2	34	1,436	8,018	37.14%	80	280	6,179
CCVIO - City Code	1,625	35.10%	26	-	-	5,147	23.84%	81	-	-
CPMVIO - Property Maintenance	424	9.16%	2	-	-	2,401	11.12%	31	-	-
CSVIO - Sanitation	327	7.06%	3	-	-	4,349	20.15%	33	-	-
CZVIO - Zoning	372	8.04%	2	-	-	1,657	7.68%	17	-	-
CMVIO - Marine	4	0.09%	-	-	-	15	0.07%	1	-	-
Totals	4,629	100.00%	35	34	1,436	21,587	100.00%	243	280	6,179
% to Total Cases			0.76%	0.73%				1.13%	1.30%	
% to Noise cases					76.51%					77.06%

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Type of Violation	For All Code Officers				
	# of Cases		Void	Cancelled	Invalid
CNOISE - Noise	9,895	37.74%	82	314	7,615
CCVIO - City Code	6,772	25.83%	107	-	-
CPMVIO - Property Maintenance	2,825	10.78%	33	-	-
CSVIO - Sanitation	4,676	17.84%	36	-	-
CZVIO - Zoning	2,029	7.74%	19	-	-
CMVIO - Marine	19	0.07%	1	-	-
Totals	26,216	100.00%	278	314	7,615
% to Total Cases			1.06%	1.20%	
% to Noise cases					76.96%

* The total number of cases recorded of 26,216 (4,629 + 21,587 = 26,216) in Table 2 excludes 109 cases whereby the address was not completed and 7,333 that occurred on the City's public rights-of-way. When included, the total number of cases increases to 33,658 which equals the total number reported in the table on page 1.

On a positive note, Table 2 shows that the five (5) officers' total cases voided (0.76%) and cancelled (0.73%) percentages were lower than the averages for the remaining officers (1.13% and 1.30% respectively). A further review of the remaining officers' individual cases data did not reveal any particular trends for other types of violations, excluding noise violations.

In addition, Table 2 shows that the number of invalid noise cases for the five (5) officers was in line with the remaining officers. However, subsequent calculation of each individual remaining officer's noise violations percentage found that 12 of the remaining officers exceeded the average (76.51%) of the five (5) officers. Of these, seven (7) officers had high invalid percentages of noise cases ranging from 82.62% to 88.79%.

B. Fire - Night Inspections

Twenty-three (23) firefighters worked as the certified lead inspector at least once for the 6,847 night inspections performed at 132 entertainment establishments between January 1, 2010 and April 30, 2012. The second firefighter that accompanied the lead inspector is not reported in the Permits Plus System so the analysis performed below focused on the identified lead inspector. According to the Fire Department's provided schedules, firefighters earned a total of \$241,203 in overtime for performing these night inspections.

The calculated overall average percentage of fines issued (54) to the number of night inspections performed (6,847) equaled 0.79% as most establishments were found to be in compliance. One lead inspector issued 33 of these fines during his 621 night inspections (5.31%) which skewed the overall percentage upwards. Yet, reviews of this lead inspector's Permits Plus System entries found that three (3) additional fines apparently should have been issued for overcrowding but were not. When questioned by the Fire Marshal, the lead inspector responded that he felt that it was better to concentrate on resolving the problem rather than to issue a ticket, given the need to control the situation at the time. If these specific

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lead inspector's results are removed from analysis, then the remaining 22 certified lead inspectors issued only 21 fines during their 6,226 night inspections performed (0.34%).

Further analysis found that only three (3) lead inspectors' fine per inspection percentage exceeded 1.00%, excluding one firefighter who issued a fine during his only night inspection. Their calculated percentages ranged from a low of 2.50% to the aforementioned high of 5.31%. In comparison, the two (2) arrested Fire Department employees combined issued only one (1) fine out of their 1,423 inspections performed (0.07%) which is well below the overall average percentage of 0.79%.

Additionally, it was calculated that the certified lead inspector who performed the most night inspections (1,108) only issued one (1) fine. Inquiries with the Fire Marshal found that this Firefighter I continues to earn large amounts of overtime performing these night inspections, especially since the arrests of the two former lead inspectors in April 2012.

More extensive testing was performed on 911 night inspections completed on 15 randomly sampled entertainment establishments which ranged from a low of two (2) inspections to a high of 165 whereby the following was found:

- Ten (10) lead inspectors, including the two (2) that were arrested, performed 870 of the 911 sampled night inspections or 95.50%.
- One (1) sampled establishment was inspected on ten (10) different dates during May 2010 with no fines being issued. Another establishment had 165 night inspections during the 28 month period which resulted in an average of 5.89 inspections per month and still no fines were issued. Conversely, another sampled establishment had only 16 inspections performed with no fines issued despite also being open for the entire 28 month reviewed period. Inquiries found that the lead inspectors tended to personally select which establishments to visit from a master listing maintained by the Fire Marshal.
- Although 17 different lead inspectors performed these 911 sampled night inspections, only seven (7) fines were issued by three (3) firefighters (one performed only two (2) inspections). An eighth fine was warranted for 330 Lincoln Road on September 16, 2011 for \$200 per Permits Plus but was not billed in the Eden System for unknown reasons.
- The two (2) arrested Fire Department employees performed 203 night inspections for these 15 randomly sampled establishments but did not issue any fines.

Since inspections are performed on a volunteer basis and inspectors' visits are not randomly selected and assigned, often the same groups of firefighters inspect the same entertainment establishments, which could lead to collusion, favoritism, misappropriations, etc. Although there is no known way to identify whether additional fines were warranted without physically accompanying the inspectors or performing unannounced site visits immediately following their departure, one could reasonably conclude that the high number of inspections with a low amount being fined means that compliance is apparently high. As a result, fewer night inspections may be needed thereby resulting in less departmental overtime.

Yet, it is disconcerting that one lead inspector would issue 33 of the 54 total fines issued (61.11%) during the 28 month period despite only performing 9.07% (621/6,847) of the night inspections. The next highest lead inspector issued seven (7) fines despite completing more night inspections (708). The sequentially pre-numbered tickets issued by the firefighters levying fines were not adequately controlled to help ensure that all were accounted for and

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there was insufficient supervisory oversight to verify that all issued tickets/fines were recorded in the Permits Plus and Eden Systems.

C. Adjustments of Code Compliance Outstanding Fines

The City's Information Technology Division provided an Excel report showing that 479 Eden System adjustments totaling \$609,861 were performed for 274 Code Compliance Division customer accounts during the reviewed period. No Eden System adjustments were noted for the Fire Department's issued night inspection fines during the 28 month reviewed period so the analysis below pertains to only those adjustments relating to Code Compliance Division fines.

All 155 customer accounts having total adjustments equal to or in excess of \$250 were examined which amounted to \$597,630 or 97.99% of the \$609,861 population. Also, 15 customer accounts were randomly sampled whereby the total adjustments were less than \$250 which amounted to \$1,343 or 10.98% of the remaining \$12,231 population balance due to the perceived smaller risk exposure. Included in the analysis was the review of customers' account histories prior to the evaluation period since the adjustments corresponding violation date could have occurred well before January 1, 2010.

It should be noted that in what appears to be an effort to close cases and to seek monetary compensation for the City, the lead Code Compliance Administrator negotiated settlements for various fines. Some of these settlements took place in 2010 as a result of the Division's effort to clean up old outstanding cases that were deemed uncollectible and were subsequently written off. While the Code Compliance Division did not have any written approved procedures to settle accounts, it appears as if the lead Code Compliance Administrator proceeded to settle and close many cases without anyone else in the division reviewing or approving these transactions.

The following table summarizes the review of each of the sampled 170 customer accounts' containing 353 adjustments and totaling \$598,973 to determine whether the supporting documentation justified the reduction in the outstanding balance (questionable or valid adjustments) and as to the type (Code Compliance violations, Sanitation fines, paid by Miscellaneous Cash Receipts (MCR), older accounts written off, etc.) and to their calculated percentage as to the whole in dollars:

	# of Adjustments	Amount of Adjustments	% of Dollars Total
Questionable Adjustments			
Code Compliance Violations	65	\$147,031	24.55%
Sanitation Fines	138	\$36,991	6.17%
Total Questionable	203	\$184,022	30.72%
Valid Adjustments			
Paid by MCR (1)	32	\$20,017	3.34%
Old Accounts Written Off (2)	58	\$263,669	44.02%
Special Master (3)	39	\$43,603	7.28%
Litigation/Settlement (4)	21	\$87,662	14.64%
Total Valid Adjustments	150	\$414,952	69.28%
Total Sampled Adjustments	353	\$598,973	100.00%

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- (1) Paid by MCR means that the customer paid monies which were processed through a Miscellaneous Cash Receipt by the Finance Department's Central Cashier's Office rather than by providing the City Bill so that the payment could be applied against it. Staff entered these transactions as adjustments for accounting reasons but in reality they represent customer payments and therefore would always be classified as "valid" in this analysis.
- (2) Accounts were written off whereby fines relating to prior financial system conversion to the current Eden System, 1995- 2005 fines not collected or billed 3-8 years later with no further established contact. Two accounts represented \$208,419 of these total adjustments.
- (3) Represent adjustments made through the Special Master.
- (4) Adjustments made on behalf of settlements made the City Attorney's Office and/or the City's Finance Department.

Incomplete and/or insufficient documentation was provided to justify the adjustment of the 203 deemed questionable accounts totaling \$184,022. However, their omission does not necessarily mean that the adjustment was not warranted; just that proper supporting documentation was not provided. The City Administration should decide whether to pursue collection against these customers or to accept the questionable adjustment transactions.

Subsequent inquiries found that the City's Sanitation Division Director was not contacted concerning the legitimacy of any imposed Sanitation fines and was not included in the Eden System's approval queue. This scenario should be revised since these collected revenues are used to offset labor, equipment and/or tipping (dumping) charges incurred by the Sanitation Division.

The decentralization of the write-off process (accounts receivable adjustments) has resulted in the individual City departments/divisions having the primary responsibility to determine the collectability of their outstanding accounts receivable. Consequently, a greater emphasis is placed on the internal controls and approvals within the originating department/division since supporting documents cannot be scanned into the Eden System to be reviewed by the designated Finance Department employee(s) before being posted into the Eden System.

The following table identifies the City employees' positions that approved these 203 questionable adjustments according to the Eden System's approval queue:

First Approver by Employee Position	Second Approver by Employee Position	# of Questionable	Amount of Questionable	% of Dollars Total
Administrative Aide I	N/A *	57	\$36,809	20.00%
Financial Analyst III	Financial Analyst III **	40	\$42,002	22.82%
Financial Analyst III	Assistant Finance Director	1	\$50	.03%
Financial Analyst III	N/A *	1	\$250	.14%
Lead Code Compliance Administrator	Financial Analyst III	104	\$104,911	57.01%
Total Questionable		203	\$184,022	100%

* N/A means that no employee's name was present in this field of the approval queue so only one person would have approved the reviewed adjustment.

** For these cases, the same Financial Analyst III was the first and second approver so again only one person would have approved the reviewed adjustment.

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The analysis completed in the table above revealed two (2) concerning facts:

- The only approver for 57 reviewed questionable adjustments was the same Administrative Aide I that entered the transactions based primarily on verbal instructions or emails provided by the lead Code Compliance Administrator.
- Only a designated Financial Analyst III approved 40 reviewed questionable adjustments entered by Code Compliance Division before it was posted into the Eden System but they did not receive or review any supporting documentation.

CONCLUSIONS

In the review of the complaints, cases, and adjustments through electronic means, the following significant trends can be summarized as follows:

- Although Code Compliance Officers have other duties besides investigating complaints and issuing warnings/violations resulting in the creation of cases, a rough calculation shows that full time and part time Code Compliance Officers responded to and created an average of 2.52 complaints and cases per day.
- There was a lack of follow-up for outstanding cases in the Permits Plus System to determine whether additional actions are needed or can they be closed.
- The five (5) arrested Code Compliance Division employees issued fewer violations (22.38% vs. 29.03%) than their counterparts for investigated complaints. Additionally, three (3) of the 17 remaining Code Compliance Officers, who responded to a minimum of 100 complaints, individually calculated violation percentages were less than the five (5) officers' average ranging from 16.71% to 21.65%.
- The five (5) Code Compliance Division employees also classified more complaints received as invalid (67.48% vs. 51.62%) percentagewise than their counterparts.
- The highest calculated Code Compliance Officer's invalid percentage of 74.89% for cases was 10.74% higher than the next ranked officer and was the only one to exceed the (5) five officers 67.48% average. Additionally, 12 of the 17 applicable officers' invalid rates for cases or 70.59% exceeded the 51.62% average for the remaining officers.
- The calculated number of Fire Night violations issued by the two (2) arrested certified lead inspectors was less (0.07% vs. 0.79%) than the overall average percentage.
- Another certified lead inspector who performed the most night inspections (1,108 out of a total 6,847) only issued one fine.
- 203 sampled adjustments of Code Compliance Division initiated fines totaling \$184,022 appear to be questionable based on the lack of sufficient supporting documentation. Of these questionable adjustments, 97 had only one individual approve the transactions in the Eden System before the customers' accounts receivable balances were reduced.

A constant shortcoming found throughout this review was the lack of internal controls whereby lower level employees were not properly supervised. For example, the Code Compliance Administrators did not question the incomplete inspection descriptions entered into Permits Plus by the Code Compliance Officers to support the decisions reached as instead they relied heavily on their subordinates' judgment; the Fire Department's high night inspection compliance rates and repeated visits to the same establishments were accepted; etc.

Similarly, mid-level management was granted too much authority and their actions were not questioned by subordinates or superiors. A designated Administrative Assistant I made Eden System adjustments based on the lead Code Compliance Administrator's submitted incomplete or

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insufficient documentation and did not question any of his decisions to superiors; they were basically able to approve their own initiated Eden System entries with no one verifying their accuracy; etc. Meanwhile, higher level management did not perform any reviews of the lead Code Compliance Administrator's actions or the current processes to determine if changes were needed.

Supporting documentation was often found to be either incomplete or missing which hindered analysis. Although time consuming to enter detailed information, it is necessary for management and external reviewers to better assess employee performance and to perform desired testing.

Lastly, one must remember that the Permits Plus System used during the reviewed period by Code Compliance and Fire, as well as other City departments/divisions, does not maintain a sufficient audit trail recording the employee's name that entered or changed the data, transactions can be backdated, etc. Instead of trying to correct these and other deficiencies, the City should expedite the testing and implementation of the pending new system (Accela Automation) which is expected to occur in the next fiscal year.

Despite the inherent risks associated with Code Compliance and Fire Department inspections, the current processes followed are in need of prompt revision to further reduce the likelihood that similar fraudulent actions may occur. The implementation and continued enforcement of the suggested items listed in the "Recommendations" section should help better accomplish this goal. Yet, these are dynamic processes that should continue to be closely monitored and amended as needed by management in the future.

RECOMMENDATIONS

This analysis should be viewed as an opportunity to effectively and comprehensively assert changes and further improve internal controls in an effort to improve the business processes and to help increase accountability and transparency. As such, the implementation of the following recommended corrective actions by the Code Compliance and/or Fire Prevention Divisions, along with management's continued vigilance, should help improve their business processes and accountability:

- a. Develop detailed Standard Operating Procedures describing the divisions' various processes. Once finalized and approved by executive management, they should be distributed to and reviewed with employees so that they could be understood and followed. Employees should then be held accountable, following the progressive disciplinary process, for not following the procedures.
- b. Additional training should be held so that all employees are informed of their duties and responsibilities. Continued deviations should be documented with the proper disciplinary actions taken.
- c. Code Compliance and Fire Department employees should complete an independence letter (at least annually) denoting any potential conflicts of interest caused when relatives own property on Miami Beach or work at Miami Beach businesses, when they own stock in a Miami Beach business, etc. If conflicts exist, then their schedules should be adjusted accordingly. Additionally, the affected employees should promptly notify management of any changes that occur in the interim so that schedules can be revised if needed.

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- d. Any cases listed as open, bill pending, bill owed, etc. should be reviewed to determine if they can be closed. If they cannot be closed, staff should determine what additional actions are necessary to achieve this status. Going forward, all Code Compliance Officers and Code Compliance Administrators should more closely monitor these cases and be disciplined accordingly if the specified timelines are not satisfied.
- e. Supervisors should better scrutinize their staff's daily work and the corresponding Permits Plus and Eden System entries. This practice should help ensure that all needed information is present, that the provided supporting documentation warrants the status of the case, that the proper fines were issued and billed, etc.
- f. The Fire Marshal or her designee should safeguard all unused pre-numbered sequential tickets and log their issuance to certified lead inspectors. Furthermore, they should perform periodic reconciliations of the tickets to ensure that all are accounted for (including voids) with any differences investigated.
- g. Conduct random unannounced auditing and spot checking of cases by a designated representative of the Administration and/or the Code Compliance and Fire Prevention Divisions.
- h. The Code Compliance Division should perform comparative analyses of individual enforcement officers with the overall division's average. Repeated variances that fall outside of acceptable ranges should be investigated to determine the reasons for these differences.
- i. Management should determine an appropriate benchmark for the average daily number of received complaints investigated and created cases. Once established, this benchmark should be used in evaluating the employees' and the overall division's performance.
- j. Designated employees independent of the Fire Prevention's night inspection process should randomly select the entertainment establishments to be visited during a given shift. Furthermore, the sampling process should be stratified to help ensure that all applicable establishments receive a sufficient number of inspections during the year as determined by the Fire Marshal.
- k. Assignment of zones to Code Compliance Officers and Administrators should be rotated at least annually to help reduce the possibility of favoritism and to help prevent improper relationships from forming with customers. Budgeted staffing levels should be met and any vacant Code Compliance Division positions should be filled.
- l. Inquiries should be made to revise the Eden System's Accounts Receivable Module so that all approving departments can view the supporting documentation scanned by the origination department in order for designated approvers to better confirm the need for and the accuracy of the desired adjustment.
- m. Guidelines should be written detailing the instances whereby adjustments can be made (a reduction of fines or a dismissal of cases by the Special Master, change or transfer of property prior to the placement of a lien, the violations were issued incorrectly or to the wrong party, etc.). Any adjustments for other nonspecified reasons should be prohibited.

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- n. Code Compliance adjustment approval queues in the Eden System should be revised so that the corresponding Code Compliance Administrator, the lead Code Compliance Administrator, the Division Director, the Division Commander, and a Finance Department designee are always included. Additionally, the Sanitation Division Director should be included in the adjustment of any Sanitation fines since that division's budget is directly affected.
 - o. The City's conversion from Permits Plus to Accela Automation should be expedited as much as possible to take advantage of its supposedly stronger internal control environment.
 - p. All listed Permits Plus fines should be promptly billed in the Eden System's Accounts Receivable Module unless a valid explanation is provided, approved by a designated hierarchy and recorded in Permits Plus.
- cc: Jorge Gomez, Assistant City Manager
Patricia Walker, Chief Financial Officer
Stephen Scott, Building Director
Hernan Cardeno, Code Compliance Division Commander
Robert Santos-Alborna, Code Compliance Division Director
Javier Otero, Fire Chief
Sonia Machen, Fire Marshal

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MIAMIBEACH

BUILDING DEPARTMENT Code Compliance Division

MEMORANDUM

TO: Stephen Scott, Director
Building Department

FROM: Hernan Cardeno, Esq.
Commander - Code Compliance

DATE: January 14, 2013

SUBJECT: Code Compliance Division Actions Adopted Since April, 2012

Please accept this memorandum as a general framework of actions taken in the Code Compliance Division since April, 2012. These actions also embody recommendations in the Internal Audit findings dated November 30, 2012.

- As part of the CM's five point plan, I was the senior level Police Commander reassigned to the Code Compliance Division for oversight; the chain-of-command has been restructured for oversight.
- All security access levels to automated databases were reviewed and restrictions on any changes adopted. These are databases where Code cases and fines can be entered, amended, altered, or deleted. Changes on access level can only occur with the Division Commander's approval and request to I.T. Approval queues have been revised.
- Background investigations procedures conducted by H.R. were reviewed and changes implemented (comprehensive time periods and arrest records).
- Code Compliance no longer accepts any payment of violations or fines in any form or fashion.
- Random AVL (Automatic Vehicle Locator) checks were instituted; supervisors now compare these location reports with daily activity worksheets, enforcement actions, and radio transmissions/dispatched calls.
- Unannounced shadowing of subordinates conducted by supervisors has been implemented on all shifts where supervisors will show up on calls or surveil from a distance and later compare to entries on daily activity worksheets and enforcement actions.
- Action memoranda processes adopted whereby no fines can be altered, waived, deleted, or mitigated absent chain-of-command approvals up to and including the ACM; on cases where significant amounts of fines are involved, the CAO and Finance are included in the chain of approval.
- For full transparency, the database now has the action memoranda scanned and uploaded as part of the permanent electronic file so that the reasoning and authorizations for changes are recorded.
- Comparative analysis and baseline averages are being instituted as work performance measures.

- Code Compliance Officer district rotations have been implemented to prevent complacency and improper relationships developing with customers.
- Performance measures for the clerical and data entry processing are being established to prevent Code cases from remaining with the officer for undetermined amounts of time.
- Management now conducts random checks to closely monitor the timely and accurate entries of cases--from line-level inception to clerical entry and accuracy of invoices issued.
- Monthly Code and Finance meetings have been instituted to review anomalies, discrepancies, and confirmations as an added level to checks and balances.
- Internal reviews of all complaints against Code personnel are routed for immediate determination of policy/procedural violations and/or criminal wrongdoing. I serve as liaison with the FBI on matters requiring disclosure and review.
- The formulation and adoption of several Standard Operating Procedures is in the review phase.
- An external audit of workflows and business processes is underway with Crowe Horwath.


This is only a general overview of some of the restructuring and changes that have been contemplated at Code. These references do not encompass all internal control measures.

Respectfully submitted.



FIRE DEPARTMENT Administration Division

MEMORANDUM

TO: Kathie Brooks, Interim City Manager
FROM: Javier Otero, Fire Chief 
DATE: January 14, 2013
SUBJECT: Fire Department Actions Adopted Since April, 2012

Below is a brief description of actions taken since April, 2012. Some of them are similar to the recommendations of the audit report. Although I have implemented internal review of statistics and trends, I will now formalize the measures and incorporate them into active strategy.

- Issuing a randomly generated list of night clubs that the inspectors must visit during their tour of inspections.
- Sent a letter to all establishments introducing Sonia as the Fire Marshall and I as the Fire Chief. The letter also assures business owners and managers that night club inspections emphasize occupancy, functional alarms and clear/open exits therefore inspectors do not have the authority to influence the code or occupancy certificate.
- Designed an eight hour course (ethics, record keeping, importance of the program to ensure life safety) that is mandatory for any inspectors wanting to participate in the night club inspections program.
- Currently evaluating two additional accountability measures to monitor the locations of the inspectors (one requires installation of scanners at all venues and the inspectors scan their ID when they enter and leave, the second is gps based and inspectors would be issued a pad with wireless service to monitor the entire route).
- Shift Division Chiefs were tasked to perform on the spot visits to verify results of the inspections and compare results. There has been feedback from the division chiefs that this task could potentially compromise their ability to respond to emergencies so the program is now on hold until I work out a rotation for the chiefs assigned on days.
- An additional factor to keep in mind is that night inspections were never about issuing violations, unlike inspections for adherence to code which are very objective and easily verified by a supervisor after the fact, crowd conditions are subjective and change over time. It is difficult to prove that in fact there are more people in the club than allowed for this reason the inspections are more about managing crowds than actually issuing violations that are very difficult to prove after the fact.